Paul S. Bliley, Jr., VSB #13973
Williams Mullen
P.O. Box 1320
Richmond, VA 23218-1320
Telephone: (804) 783-6448
Fax: (804) 783-6507
pbliley@williamsmullen.com
Counsel to Brevard County, Florida Tax Collector

IN THE UNITED STATES BANKRUPTCY COURT EASTERN DISTRICT OF VIRGINIA Richmond Division

IN RE:) Chapter 11
CIDCLUT CURY OTTO DEC. 1815) Case No. 08-35653 (KRH)
CIRCUIT CITY STORES, INC., et al.,)) Jointly Administered
Debtors.)

RESPONSE OF HONORABLE LISA CULLEN, TAX COLLECTOR IN AND FOR BREVARD COUNTY, FLORIDA ("TAX COLLECTOR") TO DEBTOR'S THIRTY-SEVENTH OMNIBUS OBJECTION TO CLAIMS (REDUCTION OF CERTAIN PERSONAL PROPERTY TAX CLAIMS)

Comes now the Honorable Lisa Cullen, Tax Collector in and for Brevard County, Florida ("Tax Collector"), and for her response to the Debtor's Thirty-Seventh Omnibus Objection to Claims (Reduction of Certain Personal Property Tax Claims) (Docket #4613) states as follows:

- 1. The Claimant's Name is the Honorable Lisa Cullen, Tax Collector in and for Brevard County, Florida ("Tax Collector"). The amount of the claim filed is for 2009 personal property taxes assessed against the personal property of Circuit City Stores located in Brevard County, Florida, as of January 1, 2009.
- 2. Attached hereto is the Affidavit of Tax Collector, who is a person with personal knowledge of the relevant facts in support of this response, which statement sets forth the reasons why the Bankruptcy Court should overrule the objection as to the Tax Collector's claim,

which includes, without limitation the specific factual and legal basis upon which the claimant intends to rely in support of her response and her underlying claim.

- 3. Attached hereto as Exhibit A is a copy of or identification of documentation supporting the Tax Collector's claim that the claimant presently intends to introduce into evidence in support of her claim at any hearing held on this objection. Claimant reserves the right to supplement this documentation at a later date if additional supporting documentation is obtained.
- 4. The claimants address, telephone number, fax number and the claimant's attorney to whom the attorneys for the Debtor should serve a reply to the response are as follows:

The Hon. Lisa Cullen Brevard County Tax Collector 400 South Street 6th Floor, Courthouse Titusville, Florida 32780-7698 Phone: (321) 264-6969

Fax: (321) 264-6919

Attorney:
Paul S. Bliley, Jr., Esquire
Williams Mullen
P.O. Box 1320
Richmond, VA 23218-1320
pbliley@williamsmullen.com
Telephone: (804) 783-6448
Fax: (804) 783-6507

5. The name, address, telephone number and fax number of the party to reconcile, settle or otherwise resolve the objection on the claimant's behalf is the attorney set forth above.

Dated: September 21, 2009

Hon. Lisa Cullen, Tax Collector In and for Brevard County, Florida 34.

By /s/ Paul S. Bliley, Jr.
Of Counsel

Paul S. Bliley, Jr., VSB No. 13973 Williams Mullen P.O. Box 1320 Richmond, VA 23218-1320

Phone:

(804) 783-6448

Fax:

(804) 783-6507

pbliley@williamsmullen.com

Counsel for Tax Collector in and for Brevard County, Florida

CERTIFICATE OF SERVICE

I hereby certify that on the 2/5 day of September 2009, I caused a copy of the foregoing to be served by electronic means on the "2002" and "Core" lists and through the ECF system.

> /s/ Paul S. Bliley, Jr. Paul S. Bliley, Jr.

6799216_1.DOC

AFFIDAVIT OF THE HONORABLE LISA CULLEN, CFC TAX COLLECTOR, BREVARD COUNTY, FLORIDA

STATE OF FLORIDA COUNTY OF BREVARD

Lisa Cullen, affiant herein, being duly sworn, deposes and says:

- That I am the duty elected Tax Collector of Brevard County Florida, a Florida constitutional officer authorized pursuant to article VIII, section 1 (d) of the Florida Constitution.
- That the duties of the office of the Tax Collector are set forth in Florida Statutes chapter 197.332. That my duties in accordance with the aforementioned statute are limited to collection of both current and delinquent taxes.
- 3. That the stated purpose of the Debtors' Motion For An Order Approving (A) Procedures For Filing Omnibus Objections to Claims and (B) The Form and Manner of the Notice of Omnibus Objections "Motion" is to "adequately protect creditors' due process rights and achieve administrative and judicial efficiency". (par 7, page 4 of the "Motion")
- 4. The "claims" as that term is used within the "objection" is for post petition 2009 ad valorem property taxes. The tax amount is based upon budgets and millage rates determined by various taxing authorities and a valuation determination made by the Brevard County Property Appraiser pursuant to the laws of the State of Florida, the Florida Administration Code and Rules and Regulations of the Florida Department of Revenue based upon facts within a sworn tax return filed on behalf of Circuit City.
- 5. That the current Florida ad valorem property tax assessment and budgetary process for local taxing authorities in the state of Florida provide for an orderly, timely and efficient exchange of facts and information ensuring the timely funding and budgeting of local government. That Florida Law provides a plain, speedy and efficient remedy for tax-payers to contest 2009 taxes.
- That Florida statutes chapter 197.2031(4) allows a Tax Collector to accept payment of estimated taxes. That upon receipt of the tax roll chapter 197.2031(8) provides for the procedure to process the estimated payment.
- 7. That the 2009 Truth in Millage Notice sent to Circuit City by the Property Appraiser are attached hereto as combined "Exhibit "A". That upon information and belief sworn tax returns for 2009 tangible property taxes were filed on behalf of Circuit City in accordance with Florida law.

 That the office of the Tax Collector is not involved in the determination of value for purposes of establishing the amount of taxes due from Circuit City for tax year 2009.

FURTHER AFFIANT SAYETH NAUGHT. Date this 21 day of Augumbar 2009

Honorable Lisa Cullen, CFC Tax Collector, Brevard County

STATE OF FLORIDA COUNTY OF BREVARD

Sworn to and subscribed before me this <u>2/57</u> day of <u>Specials</u> by Lisa Cullen, Brevard County Tax Collector, who is personally known to me.

My Commission Expires:

KELENIA S. GRANTLAND
Commission DD 658044
Expires May 27, 2011
Borded Titu Tray Fain Insurance 2003-265-7010

Case 08-35653-KRH Doc 5009 Filed 09/21/09 Entered 09/21/09 17:42:00 Desc Main Document Page 6 of 9

EXHIBIT A

Page 1 of 4

BREVARD COUNTY TAXING AUTHORITIES

Board of County Commissioners/School Board/Gilles/Special Districts Post Office Box 429 • Titusville, Florida 32781-0429

2009

ACCT: P071709 CIRCUIT CITY CIRCUIT CITY STORES, INC ATTN: TAX DEPT #3289 P O BOX 42304 RICHMOND VA 23242

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FOR PERMANENT CHANGE OF ADDRESS: Detach and complete new address below. Forward completed form to:

PROPERTY IDENTIFICATION

24 363625

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TAX ACCOUNT NUMBER 2071709

2009 NOTICE OF PROPOSED PROPERTY TAXES

REISSUED 09/17/09

TANGIBLE BUSINESS MILLAGE CODE

DO NOT PAY THIS IS NOT A BILL

P071709

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YOUR FINAL TAX BILL MAY CONTAIN NON-AD VALOREM ASSESSMENTS WHICH ARE NOT REFLECTED ON THIS NOTICE such as assessments for roads, fire, garbage, lighting, drainage, water, sewer, or other governmental services and facilities which may be levied by the county, city, or any special district.

IFYOU FEEL THE MARKET VALUE OF YOUR PROPERTY IS INACCURATE OR DOES NOT REFLECT FAIR MARKET VALUE, OR IF YOU ARE ENTITLED TO AN EXEMPTION THAT IS NOT REFLECTED ABOVE, CONTACT YOUR COUNTY PROPERTY APPRAISER AT:

Real Property (321): Titusville 264-6700; Melbourne 255-4440; Palm Bay 952-4574; Viera 690-6880 Tangible Personal Property (321): Titusville 264-6703; All other locations 633-2199 ext. 6703

If the Property Appraiser's Office is unable to resolve the matter as to market value or an exemption, you may file a petition for adjustment with the Value Adjustment Board. Pelition forms are available from the County Property Appraiser and must be tiled on or before SEPTEMBER 14,2009

The taxing authorities which levy the property taxes against your property will soon hold PUBLIC HEARINGS to adopt budgets and tax rates for next year. The purpose of these PUBLIC HEARINGS is to receive opinions from the general public and to enswer questions on the proposed tax change and budget PRIOR TO TAKING FINAL ACTION. Each lexing authority may AMEND OR ALTER its proposals at the hearing.

NOTE: Amounts shown on this form do NOT reflect payment discounts you may have received or may be eligible to receive. (Discounts are a maximum of 4 percent of the amounts above on this form.)

EXHIBIT A

Page 2 of 4

HOW TO READ YOUR "NOTICE OF PROPOSED PROPERTY TAXES"

The notice of proposed property taxes is not a final bill. However, this notice contains current valuations, applicable exemptions, and information related to taxing authorities and proposed levies.

- 1) Taxing Authorities: The government agencies, such as the county commission, school board and cities, who have the power to levy taxes.
- (2) Exemptions/Reductions: This reflects the accumulative amount of all exemptions or reductions that have been granted (i.e., homestead exemption, widow/widower exemption, disability exemption, additional homestead exemption, senior exemption, reduction in assessed value for parents or grandparents quarters, or economic development tax abatement). Not all exemptions are applied against all taxes levied; some apply only to the taxes levied by the taxing authorities that grant the exemption, or that is allowed by law. For example, the \$25,000 homestead exemption applies against all taxing districts, but the additional homestead exemption does not apply to the school district levies. The senior exemption applies only to the county's General Fund and certain municipalities that chose to grant the exemption,
- (3) Taxable Value: This reflects the taxable value for each individual taxing authority after all allowable exemptions and reductions are subtracted from the assessed value.
- 4 Your Property Taxes Last Year: This column shows the taxes that applied LAST YEAR to your property. These amounts were based on budgets adopted last year and your property's previous taxable value.
- 5 Your Taxes This Year If No Budget Change Is Made: This column shows what your taxes will be this year IF EACH TAXING AUTHORITY DOES NOT INCREASE ITS PROPERTY TAX LEVY.

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These amounts are based on last year's budgets and your current assessment. The difference between columns 5 and 6 is the tax change proposed by each local taxing authority and is NOT the result of higher assessments.

- (6) Your Taxes This Year If Proposed Budget Change Is Made: This column shows what your taxes will be this year under the BUDGET ACTUALLY PROPOSED by each local taxing authority. The proposal is NOT FINAL and may be amended at the public hearings shown on the front side of this notice.
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- Assessed Value School Board: The assessed value may be less than the market value on property granted a homestead exemption or classified as agricultural, but the 10% cap on non-homestead property is not applied to the three levies that encompass public schools.
- (11) Type of Exemptions / Reductions Granted: Description of the Exemptions / Reductions granted as displayed in column 2.

Case 08-35653-KRH Doc 5009 Filed 09/21/09 Entered 09/21/09 17:42:00 Desc Main Document Page 8 of 9

Page 3 of 4

BREVARD COUNTY TAXING AUTHORITIES

Board of County Commissioners/School Board/Cities/Special Districts Post Office Box 429 • Titusville, Florida 32781-0429

ACCT: P043014 CIRCUIT CITY STORES INC TAX DEPARTMENT - LOC #4201 P O BOX 42304 RICHMOND VA 23242-2304

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PROPERTY IDENTIFICATION

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TAX ACCOUNT NUMBER P043014

2009 NOTICE OF PROPOSED PROPERTY TAXES

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REISSUED 09/17/09

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